

ESTTA Tracking number: **ESTTA777896**

Filing date: **10/19/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

| | |
|---------------------------------------|--|
| Name | Neonode, Inc. |
| Granted to Date of previous extension | 10/19/2016 |
| Address | 2674 North First Street, Suite 150 San Francisco, CA 95134 UNITED STATES |
| Attorney information | Lori S. Kozak Fox Rothschild LLP 997 Lenox Drive, Building 3 Lawrenceville, NJ 08648 UNITED STATES ipdocket@foxrothschild.com, lkozak@foxrothschild.com, gtat@foxrothschild.com Phone:310.598.4156 |

Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 86272564 | Publication date | 06/21/2016 |
| Opposition Filing Date | 10/19/2016 | Opposition Period Ends | 10/19/2016 |
| Applicant | Veeam Software AG Linden Park, Lindenstr. 16 Baar, CH-6340 SWITZERLAND | | |

Goods/Services Affected by Opposition


| |
|--|
| <p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Computer software for use in data backup, data protection, data replication, and disaster recovery; downloadable computer software for use in monitoring computer performance, computer configuration, and change management for physical, virtual, cloud, and hybrid computer environments; downloadable computer software for data backup, data protection, data replication, disaster recovery and performance management in data centers, virtual machines, servers, desktops; downloadable computer software for use in automation and monitoring of physical and virtual computers</p> |
| <p>Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Providing temporary use of online non-downloadable computer software for use in data backup, data protection, data replication, and disaster recovery; providing temporary use of online non-downloadable computer software for use in monitoring computer performance, computer configuration, and change management for physical, virtual, cloud, and hybrid computer environments; providing temporary use of online non-downloadable computer software for data backup, data protection, data replication, disaster recovery and performance management in data centers, virtual machines, servers, desktops, and virtualization performance management; providing temporary use of online non-downloadable computer software</p> |


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| for use in automation and monitoring of physical and virtual computers |
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Grounds for Opposition


| | |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act Section 2(d) |
|--------------------------------------|----------------------------|

Marks Cited by Opposer as Basis for Opposition

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 4832108 | Application Date | 01/30/2012 |
| Registration Date | 10/13/2015 | Foreign Priority Date | NONE |
| Word Mark | ALWAYSON | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 009. First use: First Use: 2015/02/14 First Use In Commerce: 2015/02/14 software for running, programming and controlling integrated circuits, application specific integrated circuits, programmable integrated circuits, integrated circuit modules; operating software for integrated circuits and modules; computer hardware; computer software for communicating with and controlling touch screen hardware; computer software, namely, user interface software for touch screens; graphical user interface software; computer chips, semiconductors, computer operating software, electronic controllers for touch screens | | |

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 4720446 | Application Date | 03/14/2011 |
| Registration Date | 04/14/2015 | Foreign Priority Date | NONE |
| Word Mark | ALWAYSON | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 009. First use: First Use: 2015/02/14 First Use In Commerce: 2015/02/14 | | |

| | |
|--|--|
| | Computer touch screens for mobile telephones; overlays specially adapted for touch screen displays; electronic book readers; flat panel display screens; PC tablets; and tablet computers Class 028. First use: First Use: 2015/02/14 First Use In Commerce: 2015/02/14 Hand-held games with liquid crystal displays |
|--|--|

| | | | |
|----------------------|---|-----------------------|------------|
| U.S. Application No. | 85965834 | Application Date | 06/20/2013 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | ALWAYSON | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 009. First use: First Use: 2016/09/16 First Use In Commerce: 2016/09/16 Electronic proximity sensors and switches; Electronic touch sensitive switches; Proximity sensors; Touch pads; Touch panels; Touch screens; Touch-screen monitors; Touchscreen sensors | | |

| | |
|-------------|--|
| Attachments | 85528518#TMSN.png(bytes) 85266160#TMSN.png(bytes) 85965834#TMSN.png(bytes) Notice of Opp. - Veeam Software AG ALWAYS-ON.pdf(2811765 bytes) |
|-------------|--|

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

| | |
|-----------|-----------------|
| Signature | /Lori S. Kozak/ |
| Name | Lori S. Kozak |
| Date | 10/19/2016 |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | | |
|-------------------|---|--------------------------|
| Neonode, Inc. |) | |
| |) | Trademark Application |
| |) | Serial No. 86/272564 |
| Opposer, |) | |
| |) | Filed: May 6, 2014 |
| v. |) | |
| |) | Mark: ALWAYS-ON |
| Veeam Software AG |) | |
| |) | Published: June 21, 2016 |
| Applicant |) | |

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Neonode, Inc., by and through its undersigned attorneys, believes that it will be damaged by the registration of the mark shown in U.S. Trademark Application Serial No. 86/272564 for the mark ALWAYS-ON in International Classes 9 and 42 and hereby opposes the same. As grounds for opposition, it is alleged that:

1. Upon information and belief, Applicant Veeam Software AG (hereinafter "Applicant"), is a Swiss corporation with an address of Linden Park, Lindenstr. 16 Baar Switzerland CH-6340.
2. Upon information and belief, Applicant seeks to register the mark ALWAYS-ON for goods and services described as "Computer software for use in data backup, data protection, data replication, and disaster recovery; downloadable computer software for use in monitoring computer performance, computer configuration, and change management for physical, virtual, cloud, and hybrid computer environments; downloadable computer software for

data backup, data protection, data replication, disaster recovery and performance management in data centers, virtual machines, servers, desktops; downloadable computer software for use in automation and monitoring of physical and virtual computers” in International Class 9 and “Providing temporary use of online non-downloadable computer software for use in data backup, data protection, data replication, and disaster recovery; providing temporary use of online non-downloadable computer software for use in monitoring computer performance, computer configuration, and change management for physical, virtual, cloud, and hybrid computer environments; providing temporary use of online non-downloadable computer software for data backup, data protection, data replication, disaster recovery and performance management in data centers, virtual machines, servers, desktops, and virtualization performance management; providing temporary use of online non-downloadable computer software for use in automation and monitoring of physical and virtual computers” in Class 42 (hereinafter “Opposed Goods and Services”).

3. Upon information and belief, the subject application was filed on May 6, 2014, and was published for opposition on June 21, 2016.
4. Opposer Neonode, Inc. (hereinafter “Opposer”) is a Delaware corporation with an address of 2674 North First Street, Suite 150, San Jose, California 95134.
5. Opposer is the owner of two U.S. trademark registrations and one allowed application for the trademark ALWAYSON, all on the Principal Register as set forth below:

| Mark | Reg. No. | Goods/Services/Class |
|----------|----------|---|
| ALWAYSON | 4832108 | Software for running, programming and controlling integrated circuits, application specific integrated circuits, programmable integrated circuits, integrated circuit modules; operating software for integrated circuits and modules; computer hardware; computer software for communicating with and controlling touch screen |

| | | |
|-----------------|-----------|---|
| | | hardware; computer software, namely, user interface software for touch screens; graphical user interface software; computer chips, semiconductors, computer operating software, electronic controllers for touch screens, in Class 9 |
| ALWAYSON | 4720446 | Computer touch screens for mobile telephones; overlays specially adapted for touch screen displays; electronic book readers; flat panel display screens; PC tablets; and tablet computers in Class 9 and Hand-held games with liquid crystal displays in Class 28 |
| ALWAYSON | 85/965834 | Electronic proximity sensors and switches; electronic touch sensitive switches; proximity sensors; touch pads; touch panels; touch screens; touchscreen monitors; touchscreen sensors, in Class 9 |

Please see attached as **Exhibit A** printouts from the U.S. Patent & Trademark Office (“USPTO”) online TESS and TSDR databases.

6. Opposer actively uses its ALWAYSON trademark in connection computer, software and technology products, and Opposer’s use of the mark ALWAYSON predates any date which may be lawfully claimed by Applicant.
7. Opposer’s ALWAYSON trademark is registered on the Principal Register and each such registration constitutes *prima facie* evidence of the validity of the mark, the registration therefor, Opposer’s ownership of the mark, and Opposer’s exclusive rights to use the mark in commerce.
8. As a result of the high quality of Opposer’s products and services, and the widespread promotion thereof under Opposer’s ALWAYSON trademark, the mark has acquired distinctiveness and significant consumer recognition in the marketplace. Opposer’s ALWAYSON trademark is recognized as a trademark of Opposer, its quality goods and services, and its goodwill.
9. The mark in Application Serial No. 86/272564, ALWAYS-ON, is very similar to Opposer’s ALWAYSON trademark.

10. The Opposed Goods and Services and Opposer's goods are both computer and software products and services and are highly related.
11. Applicant's use of the highly similar mark in connection with the Opposed Goods and Services is likely to result in confusion, mistake, and/or deception in that the public will wrongly assume that Opposer has approved of Applicant, is affiliated with Applicant, or has otherwise sanctioned, sponsored or licensed the goods and services of Applicant.
12. Applicant's use of the mark ALWAYS-ON in connection with the Opposed Goods and Services is likely to cause confusion with Opposer's ALWAYSON trademark as used in connection with Opposer's good and services.
13. Opposer would be damaged by the registration of the mark ALWAYS-ON by Applicant as the registration will result in confusion, mistake, and/or deception, and Applicant will be able to trade on Opposer's goodwill and reputation.
14. The registration of Applicant's mark will cause the dilution of the distinctive quality of Opposer's trademark, to Opposer's irreparable damage.

WHEREFORE, Opposer prays that this opposition be granted and that Applicant's Application Serial No. 86/272564 for the mark ALWAYS-ON be abandoned.

Respectfully submitted,

Dated: 10/19/2016



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Attorney for Opposer
Neonode, Inc.

EXHIBIT A



United States Patent and Trademark Office

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ALWAYSON

Word Mark ALWAYSON**Goods and Services** IC 009. US 021 023 026 036 038. G & S: software for running, programming and controlling integrated circuits, application specific integrated circuits, programmable integrated circuits, integrated circuit modules; operating software for integrated circuits and modules; computer hardware; computer software for communicating with and controlling touch screen hardware; computer software, namely, user interface software for touch screens; graphical user interface software; computer chips, semiconductors, computer operating software, electronic controllers for touch screens. FIRST USE: 20150214. FIRST USE IN COMMERCE: 20150214**Standard Characters Claimed****Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 85528518**Filing Date** January 30, 2012**Current Basis** 1A**Original Filing Basis** 1B**Published for Opposition** January 1, 2013**Registration Number** 4832108**Registration Date** October 13, 2015**Owner** (REGISTRANT) Neonode Inc. CORPORATION DELAWARE 2350 Mission College Blvd., Suite 190 Santa Clara

CALIFORNIA 95054

**Attorney of
Record**

Lori Kozak

**Type of
Mark**

TRADEMARK

Register

PRINCIPAL

**Live/Dead
Indicator**

LIVE

| | | | | | | | | | | |
|-----------|----------|------------|-----------|-------------|-----------|-----|------|-----------|-----------|-----------|
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Mark: ALWAYSON

ALWAYSON

US Serial Number: 85528518

Application Filing Date: Jan. 30, 2012

US Registration Number: 4832108

Registration Date: Oct. 13, 2015

Register: Principal

Mark Type: Trademark

TM5 Common Status

Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Off

Status: Registered. The registration date is used to determine when post-registration maintenance documents are

Status Date: Oct. 13, 2015

Publication Date: Jan. 01, 2013

Notice of Allowance Date: Feb. 26, 2013

Mark Information

Mark Literal Elements: ALWAYSON

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: software for running, programming and controlling integrated circuits, application specific integrated circuits, integrated circuit modules; operating software for integrated circuits and modules; computer hardware communicating with and controlling touch screen hardware; computer software, namely, user interface software; graphical user interface software; computer chips, semiconductors, computer operating software, electronic screens

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 0

Class Status: ACTIVE**Basis:** 1(a)**First Use:** Feb. 14, 2015**Use in Commerce:** Feb. 14, 2015**Basis Information (Case Level)**

| | | |
|---------------------------|-------------------------------|------------|
| Filed Use: No | Currently Use: Yes | Ame |
| Filed ITU: Yes | Currently ITU: No | Ame |
| Filed 44D: No | Currently 44D: No | Ame |
| Filed 44E: No | Currently 44E: No | Ame |
| Filed 66A: No | Currently 66A: No | |
| Filed No Basis: No | Currently No Basis: No | |

Current Owner(s) Information

Owner Name: Neonode Inc.

Owner Address: 2350 Mission College Blvd., Suite 190
Santa Clara, CALIFORNIA UNITED STATES 95054

Legal Entity Type: CORPORATION **State or Country Where Organized:** DELAWARE

Attorney/Correspondence Information**Attorney of Record****Attorney Name:** Lori Kozak**Docket Number:** 8958.T006USA**Correspondent**

Correspondent Name/Address: LORI KOZAK
Fox Rothschild LLP
997 Lenox Drive, Building 3
Princeton Pike Corporate Center,
Lawrenceville, NEW JERSEY UNITED STATES 08648-2311

Phone: 310-598-4156**Fax:** 310-556-9828

Correspondent e-mail: lkozak@foxrothschild.com
mromero@foxrothschild.com
ipdocket@foxrothschild.com

Correspondent e-mail Yes
Authorized:

Domestic Representative - Not Found**Prosecution History**

| Date | Description | Proceeding Number |
|---------------|---|--------------------------|
| Oct. 13, 2015 | REGISTERED-PRINCIPAL REGISTER | |
| Sep. 17, 2015 | TEAS CHANGE OF CORRESPONDENCE RECEIVED | |
| Sep. 10, 2015 | NOTICE OF ACCEPTANCE OF STATEMENT OF USE MAILED | |
| Sep. 09, 2015 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED | |

| | | |
|---------------|---|-------|
| Aug. 17, 2015 | STATEMENT OF USE PROCESSING COMPLETE | 70565 |
| Feb. 20, 2015 | USE AMENDMENT FILED | 70565 |
| Feb. 28, 2015 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| Feb. 27, 2015 | EXTENSION 4 GRANTED | 70565 |
| Feb. 20, 2015 | EXTENSION 4 FILED | 70565 |
| Feb. 20, 2015 | TEAS EXTENSION RECEIVED | |
| Feb. 20, 2015 | TEAS STATEMENT OF USE RECEIVED | |
| Jun. 27, 2014 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| Jun. 26, 2014 | EXTENSION 3 GRANTED | 70565 |
| Jun. 24, 2014 | EXTENSION 3 FILED | 70565 |
| Jun. 24, 2014 | TEAS EXTENSION RECEIVED | |
| Apr. 09, 2014 | APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED | 88888 |
| Apr. 09, 2014 | TEAS CHANGE OF OWNER ADDRESS RECEIVED | |
| Feb. 26, 2014 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| Feb. 25, 2014 | EXTENSION 2 GRANTED | 70565 |
| Jan. 29, 2014 | EXTENSION 2 FILED | 70565 |
| Feb. 24, 2014 | CASE ASSIGNED TO INTENT TO USE PARALEGAL | 70565 |
| Jan. 29, 2014 | TEAS EXTENSION RECEIVED | |
| Jun. 19, 2013 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| Jun. 17, 2013 | EXTENSION 1 GRANTED | 98765 |
| Jun. 17, 2013 | EXTENSION 1 FILED | 98765 |
| Jun. 17, 2013 | TEAS EXTENSION RECEIVED | |
| Feb. 26, 2013 | NOA MAILED - SOU REQUIRED FROM APPLICANT | |
| Jan. 01, 2013 | PUBLISHED FOR OPPOSITION | |
| Dec. 12, 2012 | NOTICE OF PUBLICATION | |
| Nov. 29, 2012 | LAW OFFICE PUBLICATION REVIEW COMPLETED | 73797 |
| Nov. 28, 2012 | ASSIGNED TO LIE | 73797 |
| Nov. 12, 2012 | APPROVED FOR PUB - PRINCIPAL REGISTER | |
| Nov. 08, 2012 | TEAS/EMAIL CORRESPONDENCE ENTERED | 88889 |
| Nov. 07, 2012 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 88889 |
| Nov. 07, 2012 | TEAS RESPONSE TO OFFICE ACTION RECEIVED | |
| May 09, 2012 | NON-FINAL ACTION MAILED | |
| May 09, 2012 | NON-FINAL ACTION WRITTEN | 76136 |
| May 08, 2012 | ASSIGNED TO EXAMINER | 76136 |
| Feb. 03, 2012 | NOTICE OF PSEUDO MARK MAILED | |
| Feb. 02, 2012 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | |
| Feb. 02, 2012 | NEW APPLICATION ENTERED IN TRAM | |

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Sep. 09, 2015

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ALWAYSON

Word Mark ALWAYSON
Goods and Services IC 009. US 021 023 026 036 038. G & S: Computer touch screens for mobile telephones; overlays specially adapted for touch screen displays; electronic book readers; flat panel display screens; PC tablets; and tablet computers. FIRST USE: 20150214. FIRST USE IN COMMERCE: 20150214

IC 028. US 022 023 038 050. G & S: Hand-held games with liquid crystal displays. FIRST USE: 20150214. FIRST USE IN COMMERCE: 20150214

Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85266160

Filing Date March 14, 2011

Current Basis 1A

Original Filing Basis 1B

Published for Opposition January 10, 2012

Registration Number 4720446

Registration Date April 14, 2015

Owner (REGISTRANT) Neonode Inc. CORPORATION DELAWARE 2674 North First Street, Suite 150 San Jose

CALIFORNIA 95134

**Attorney of
Record** Lori S. Kozak
**Type of
Mark** TRADEMARK
Register PRINCIPAL
**Live/Dead
Indicator** LIVE

| | | | | | | | | | | |
|---------------------------|--------------------------|----------------------------|---------------------------|-----------------------------|---------------------------|---------------------|----------------------|---------------------------|---------------------------|---------------------------|
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Mark: ALWAYSON

ALWAYSON

US Serial Number: 85266160

Application Filing Date: Mar. 14, 2011

US Registration Number: 4720446

Registration Date: Apr. 14, 2015

Register: Principal

Mark Type: Trademark

TM5 Common Status

Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Offi

Status: Registered. The registration date is used to determine when post-registration maintenance documents are

Status Date: Apr. 14, 2015

Publication Date: Jan. 10, 2012

Notice of Allowance Date: Mar. 06, 2012

Mark Information

Mark Literal Elements: ALWAYSON

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

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For: Computer touch screens for mobile telephones; overlays specially adapted for touch screen displays; ele panel display screens; PC tablets; and tablet computers

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 0

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 14, 2015**Use in Commerce:** Feb. 14, 2015**For:** Hand-held games with liquid crystal displays**International Class(es):** 028 - Primary Class**U.S Class(es):** 022, 023, 038, 050**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** Feb. 14, 2015**Use in Commerce:** Feb. 14, 2015

Basis Information (Case Level)

| | | |
|---------------------------|-------------------------------|------------|
| Filed Use: No | Currently Use: Yes | Ame |
| Filed ITU: Yes | Currently ITU: No | Ame |
| Filed 44D: No | Currently 44D: No | Ame |
| Filed 44E: No | Currently 44E: No | Ame |
| Filed 66A: No | Currently 66A: No | |
| Filed No Basis: No | Currently No Basis: No | |

Current Owner(s) Information

Owner Name: Neonode Inc.**Owner Address:** 2674 North First Street, Suite 150
San Jose, CALIFORNIA UNITED STATES 95134**Legal Entity Type:** CORPORATION**State or Country Where** DELAWARE
Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Lori S. Kozak**Docket Number:** 008958.T006U**Attorney Primary Email** bstz_mail@bstz.com**Attorney Email Authorized:** No**Address:**

Correspondent

Correspondent LORI S. KOZAK**Name/Address:** Fox Rothschild LLP

997 Lenox Drive, Building 3

Princeton Pike Corporate Center,

Lawrenceville, NEW JERSEY UNITED STATES 08648-2311

Phone: 310-598-4156**Fax:** 310-556-9828**Correspondent e-mail:** lkozak@foxrothschild.com
mromero@foxrothschild.com
ipdocket@foxrothschild.com**Correspondent e-mail** Yes
Authorized:**Domestic Representative - Not Found**

Prosecution History

| Date | Description | Proceeding Number |
|---------------|---|-------------------|
| Sep. 17, 2015 | TEAS CHANGE OF CORRESPONDENCE RECEIVED | |
| Sep. 01, 2015 | APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED | 88888 |
| Sep. 01, 2015 | TEAS CHANGE OF OWNER ADDRESS RECEIVED | |
| Apr. 14, 2015 | REGISTERED-PRINCIPAL REGISTER | |
| Mar. 10, 2015 | NOTICE OF ACCEPTANCE OF STATEMENT OF USE MAILED | |
| Mar. 09, 2015 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED | |
| Feb. 23, 2015 | STATEMENT OF USE PROCESSING COMPLETE | 70565 |
| Feb. 20, 2015 | USE AMENDMENT FILED | 70565 |
| Feb. 20, 2015 | TEAS STATEMENT OF USE RECEIVED | |
| Sep. 05, 2014 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| Sep. 04, 2014 | EXTENSION 5 GRANTED | 70565 |
| Sep. 02, 2014 | EXTENSION 5 FILED | 70565 |
| Sep. 02, 2014 | TEAS EXTENSION RECEIVED | |
| Feb. 28, 2014 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| Feb. 27, 2014 | EXTENSION 4 GRANTED | 70565 |
| Feb. 14, 2014 | EXTENSION 4 FILED | 70565 |
| Feb. 14, 2014 | TEAS EXTENSION RECEIVED | |
| Sep. 10, 2013 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| Sep. 09, 2013 | EXTENSION 3 GRANTED | 70565 |
| Aug. 09, 2013 | EXTENSION 3 FILED | 70565 |
| Sep. 06, 2013 | CASE ASSIGNED TO INTENT TO USE PARALEGAL | 70565 |
| Aug. 09, 2013 | TEAS EXTENSION RECEIVED | |
| Dec. 15, 2012 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| Dec. 14, 2012 | EXTENSION 2 GRANTED | 76873 |
| Dec. 07, 2012 | EXTENSION 2 FILED | 76873 |
| Dec. 14, 2012 | CASE ASSIGNED TO INTENT TO USE PARALEGAL | 76873 |
| Dec. 07, 2012 | TEAS EXTENSION RECEIVED | |
| Jun. 08, 2012 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| Jun. 06, 2012 | EXTENSION 1 GRANTED | 98765 |
| Jun. 06, 2012 | EXTENSION 1 FILED | 98765 |
| Jun. 06, 2012 | TEAS EXTENSION RECEIVED | |
| Mar. 06, 2012 | NOA MAILED - SOU REQUIRED FROM APPLICANT | |
| Jan. 10, 2012 | PUBLISHED FOR OPPOSITION | |
| Dec. 21, 2011 | NOTICE OF PUBLICATION | |
| Dec. 03, 2011 | LAW OFFICE PUBLICATION REVIEW COMPLETED | 70629 |
| Nov. 28, 2011 | APPROVED FOR PUB - PRINCIPAL REGISTER | |
| Nov. 28, 2011 | LIE CHECKED SUSP - TO ATTY FOR ACTION | 70629 |

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|---------------|--|-------|
| Nov. 28, 2011 | ASSIGNED TO LIE | 70629 |
| May 24, 2011 | LETTER OF SUSPENSION MAILED | |
| May 23, 2011 | SUSPENSION LETTER WRITTEN | 73372 |
| May 23, 2011 | ASSIGNED TO EXAMINER | 73372 |
| Mar. 19, 2011 | NOTICE OF PSEUDO MARK MAILED | |
| Mar. 18, 2011 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | |
| Mar. 17, 2011 | NEW APPLICATION ENTERED IN TRAM | |

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Mar. 09, 2015

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| TSDR | ASSIGN Status | TTAB Status |
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ALWAYSON

Word Mark ALWAYSON**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Electronic proximity sensors and switches; Electronic touch sensitive switches; Proximity sensors; Touch pads; Touch panels; Touch screens; Touchscreen monitors; Touchscreen sensors. FIRST USE: 20160916. FIRST USE IN COMMERCE: 20160916**Standard Characters Claimed****Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 85965834**Filing Date** June 20, 2013**Current Basis** 1B**Original Filing Basis** 1B**Published for Opposition** September 17, 2013**Owner** (APPLICANT) Neonode, Inc. CORPORATION DELAWARE 2350 Mission College Blvd., Suite 190 Santa Clara CALIFORNIA 95054**Attorney of Record** Lori S. Kozak**Type of Mark** TRADEMARK**Register** PRINCIPAL

Live/Dead
Indicator **LIVE**

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Mark: ALWAYSON

ALWAYSON

US Serial Number: 85965834

Application Filing Date: Jun. 20, 2013

Register: Principal

Mark Type: Trademark

TM5 Common Status

Descriptor:



LIVE/APPLICATION/Under Examination

The trademark application has been accepted by the Office (minimum filing requirements) and that this application has been accepted by an examiner.

Status: A non-final Office Action has been sent (issued) to the applicant after review of the Statement of Use. This examining attorney requiring additional information and/or making an initial refusal. The applicant must re-submit documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Oct. 15, 2016

Publication Date: Sep. 17, 2013

Notice of Allowance Date: Nov. 12, 2013

Mark Information

Mark Literal Elements: ALWAYSON

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Electronic proximity sensors and switches; Electronic touch sensitive switches; Proximity sensors; Touch screens; Touchscreen monitors; Touchscreen sensors

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(b)

First Use: Sep. 16, 2016

Use in Commerce: Sep. 16, 2016

Basis Information (Case Level)

| | | |
|--------------------|------------------------|-----|
| Filed Use: No | Currently Use: No | Ame |
| Filed ITU: Yes | Currently ITU: Yes | Ame |
| Filed 44D: No | Currently 44D: No | Ame |
| Filed 44E: No | Currently 44E: No | Ame |
| Filed 66A: No | Currently 66A: No | |
| Filed No Basis: No | Currently No Basis: No | |

Current Owner(s) Information

Owner Name: Neonode, Inc.

Owner Address: 2350 Mission College Blvd., Suite 190
Santa Clara, CALIFORNIA UNITED STATES 95054

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Attorney/Correspondence Information**Attorney of Record**

Attorney Name: Lori S. Kozak

Docket Number: 008958.T006U

Attorney Primary Email bstz_mail@bstz.com

Attorney Email Authorized: No

Address:

Correspondent

Correspondent Name/Address: LORI S. KOZAK
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ipdocket@foxrothschild.com

Correspondent e-mail Yes
Authorized:

Domestic Representative - Not Found

Prosecution History

| Date | Description | Proceeding Number |
|---------------|---|-------------------|
| Oct. 15, 2016 | NOTIFICATION OF NON-FINAL ACTION E-MAILED | |
| Oct. 15, 2016 | NON-FINAL ACTION E-MAILED | |
| Oct. 15, 2016 | SU - NON-FINAL ACTION - WRITTEN | 83189 |

| | | |
|---------------|--|-------|
| Oct. 15, 2016 | STATEMENT OF USE PROCESSING COMPLETE | 69302 |
| Oct. 07, 2016 | USE AMENDMENT FILED | 69302 |
| Oct. 07, 2016 | TEAS STATEMENT OF USE RECEIVED | |
| Apr. 29, 2016 | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED | |
| Apr. 28, 2016 | EXTENSION 5 GRANTED | 69302 |
| Apr. 04, 2016 | EXTENSION 5 FILED | 69302 |
| Apr. 04, 2016 | TEAS EXTENSION RECEIVED | |
| Nov. 10, 2015 | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED | |
| Nov. 09, 2015 | EXTENSION 4 GRANTED | 69302 |
| Nov. 02, 2015 | EXTENSION 4 FILED | 69302 |
| Nov. 02, 2015 | TEAS EXTENSION RECEIVED | |
| Sep. 17, 2015 | TEAS CHANGE OF CORRESPONDENCE RECEIVED | |
| May 09, 2015 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| May 08, 2015 | EXTENSION 3 GRANTED | 69302 |
| Apr. 29, 2015 | EXTENSION 3 FILED | 69302 |
| Apr. 29, 2015 | TEAS EXTENSION RECEIVED | |
| Oct. 04, 2014 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| Oct. 03, 2014 | EXTENSION 2 GRANTED | 69302 |
| Sep. 22, 2014 | EXTENSION 2 FILED | 69302 |
| Oct. 03, 2014 | CASE ASSIGNED TO INTENT TO USE PARALEGAL | 69302 |
| Sep. 22, 2014 | TEAS EXTENSION RECEIVED | |
| May 03, 2014 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED | |
| May 01, 2014 | EXTENSION 1 GRANTED | 98765 |
| May 01, 2014 | EXTENSION 1 FILED | 98765 |
| May 01, 2014 | TEAS EXTENSION RECEIVED | |
| Nov. 12, 2013 | NOA MAILED - SOU REQUIRED FROM APPLICANT | |
| Sep. 17, 2013 | PUBLISHED FOR OPPOSITION | |
| Aug. 28, 2013 | NOTICE OF PUBLICATION | |
| Aug. 05, 2013 | APPROVED FOR PUB - PRINCIPAL REGISTER | |
| Aug. 05, 2013 | ASSIGNED TO EXAMINER | 83189 |
| Jul. 03, 2013 | NOTICE OF PSEUDO MARK MAILED | |
| Jul. 02, 2013 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | |
| Jun. 24, 2013 | NEW APPLICATION ENTERED IN TRAM | |

TM Staff and Location Information

TM Staff Information

TM Attorney: FLOWERS, JAY K

Law Office Assigned: LAW OFFICE 112

File Location

Current Location: TMO LAW OFFICE 112 - EXAMINING ATTORNEY

Date in Location: Oct. 15, 2016

ASSIGNED

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PROOF OF SERVICE

I, Garbo Tat, hereby declare that I am employed by the law firm of FOX ROTHSCHILD LLP, Princeton Pike Corporate Center, 997 Lenox Drive, Bldg. 3, Lawrenceville, New Jersey 08648-2311; that I am over 18 years of age and not a party to the within action; and that I served the following document: NOTICE OF OPPOSITION this 19th day of October, 2016, by causing a true copy to be sent to Applicant's attorney by First Class Mail:

Monica Riva Talley
STERNE, KESSLER, GOLDSTEIN & FOX, PLLC
1100 New York Avenue, N.W.
Washington, DC

Date: _____

10/19/2016

Name: Garbo Tat

